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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,511	09/22/2003	Douglas A. Beigel	28864U	5823
20529 7590 03/10/2009 THE NATH LAW GROUP 112 South West Street Alexandria, VA 22314				
EXAMINER UTAMA, ROBERT J				
ART UNIT		PAPER NUMBER		
3715				
MAIL DATE		DELIVERY MODE		
03/10/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/665,511

Applicant(s)

BEIGEL, DOUGLAS A.

Examiner

ROBERT J. UTAMA

Art Unit

3715

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/XUAN M. THAI/
Supervisory Patent Examiner, Art Unit 3715

Continuation of 11, does NOT place the application in condition for allowance because: With respect to applicant's argument on the rejection under 35 U.S.C 101, the examiner accepts applicant arguments and withdraw the rejection. Upon further consideration, the limitation "network access device" provide enough tie to another statutory subject matter.

With respect to applicant's argument on claim 1, 8, 11, 22 and 25-26 under 35 U.S.C 102(b) the applicant argues that the Singer reference fails to discuss explicit evaluation question. The applicant also argues that the profile is superficial and not constructed from the evaluation question. The examiner respectfully disagrees. The Singer reference provides a teaching of a list question that specifies the type of the facilities (see col. 9:20-30 :address", "facility and equipment information"). The applicant argues that such information is superficial, however, the claim language of claim 1, 8, 11, 22 and 25-26 do not specify the depth or the type of information in the evaluation survey.

The applicant also argues that the Singer reference merely produce a spreadsheet for data entry, but there is no interaction or enablement of interaction between the user, the server and the resulting spreadsheet in constructing a profile from the user's answers to evaluation questions. The examiner respectfully disagrees. While the Singer reference do allow brief period of offline interaction do not necessarily mean that the whole process takes place offline (see col. 4:40-50). Accordingly the examiner points also to interaction between the user, the server and the resulting spreadsheet in constructing a profile from the user's answers (see col. 9:5-17 and 4:20-30). The applicant also argues that the Singer reference lacks teaching for the limitation of "... information usable to determine if at least one organization meet the requirement for at least one compliance certification." The examiner respectfully disagrees. Firstly, the disputed limitation can be interpreted as an intended use limitation. Secondly, the Singer reference provides an explicit teaching where the information gathered previously are used to determine if at least one organization meet the requirement for at least one compliance certification (see col. 6:40-58).